

The Texas Natural Resource Conservation Commission (commission) adopts amendment to §305.42 concerning consolidated permits.

#### EXPLANATION OF ADOPTED RULES

The primary purpose of the adopted amendment is to revise the state rules to conform to a certain federal regulation. Establishing equivalency with federal regulations will enable the State of Texas to retain authorization to operate aspects of the federal hazardous waste program in lieu of the United States Environmental Protection Agency (EPA).

The federal regulation to which the adopted rule is being conformed was promulgated by the EPA on June 29, 1995, at 60 FedReg 33911. The adopted rule states that, for applications involving hazardous waste management facilities for which the owner or operator has submitted Part A of the permit application and has not yet filed Part B, the owner or operator is subject to the requirements for updating the Part A application under 40 Code of Federal Regulations §270.10(g), as amended and adopted in the Code of Federal Regulations through June 29, 1995, (see 60 FedReg 33911).

#### FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the act, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

## TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this rule pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that assessment. The specific purpose of the adopted rule is to ensure that Texas' state hazardous waste rules are equivalent to the federal regulations after which they are patterned, thus enabling the state to retain authorization to operate its own hazardous waste program in lieu of the corresponding federal program. The adopted rule will substantially advance this stated purpose by introducing language intended to ensure that state rules are equivalent to the corresponding federal regulations. Promulgation and enforcement of this rule will not affect private real property which is the subject of the rules because the adopted language consists of an amendment to bring the state hazardous waste regulations into equivalence with a certain federal regulation. The subject regulation does not affect a landowners rights in private real property.

## COASTAL MANAGEMENT PROGRAM

The commission has reviewed the rulemaking and found that it is a rulemaking subject to the Coastal Management Program (CMP) and must be consistent with all applicable goals and policies of the CMP. The commission has prepared a consistency determination for the adopted rule pursuant to 31 TAC §505.22 and has found that the rulemaking is consistent with the applicable CMP goals and policies. The following is a summary of that determination. The CMP goal applicable to the rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs). Applicable policies are construction and operation of solid waste treatment, storage, and disposal facilities, such that new solid waste facilities and areal expansions of existing solid waste facilities shall be sited, designed, constructed, and operated to

prevent releases of pollutants that may adversely affect CNRAs and, at a minimum, comply with standards established under the Solid Waste Disposal Act, 42 United States Code Annotated, §§6901 et seq. Promulgation and enforcement of this rule is consistent with the applicable CMP goals and policies because the rule amendment will comply with the standards under the Solid Waste Disposal Act. In addition, the adopted rule does not violate any applicable provisions of the CMP's stated goals and policies. No comments were received on the proposed CMP consistency determination.

#### HEARINGS AND COMMENTERS

The commission did not hold a public hearing on the proposed rule changes. The comment period for the proposed rules closed at 5:00 p.m., July 20, 1998. There were no comments received.

#### STATUTORY AUTHORITY

The amendment is adopted under Texas Water Code §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code or other laws of this state; and under Texas Health and Safety Code, Solid Waste Disposal Act, §361.017 and §361.024, which authorize the commission to regulate industrial solid waste and municipal hazardous waste and to adopt rules consistent with the general intent and purposes of the Act.

## **SUBCHAPTER C : APPLICATION FOR PERMIT**

### **§305.42. Application Required.**

(a) - (c) (No Change.)

(d) For applications involving hazardous waste management facilities for which the owner or operator has submitted Part A of the permit application and has not yet filed Part B, the owner or operator is subject to the requirements for updating the Part A application under 40 Code of Federal Regulations §270.10(g), as amended and adopted in the Code of Federal Regulations through June 29, 1995, (see 60 FedReg 33911).